



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, Utah 84631

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OCT 20 2008

DIV. OF OIL, GAS & MINING

9/30/27/0024
S/027/0073
S/027/0093
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CC: Tom.



In Reply Refer to:
3809 (UT-010)
UTU 070660
UTU 075877
UTU 075878
UTU 078293

October 16, 2008

CERTIFIED MAIL # 7007 2680 0003 2243 6835
RETURN RECEIPT REQUESTED

Mr. David L. Penney
Penney's Gemstones LLC
PO Box 312
Beaver UT 84713

Dear Mr. Penney:

This letter is in response to your concern, expressed by the April 2008 letter from K.L. McIff, on the expiration of your Notices UTU 70660, UTU 75877, UTU 75878, and UTU 78293.

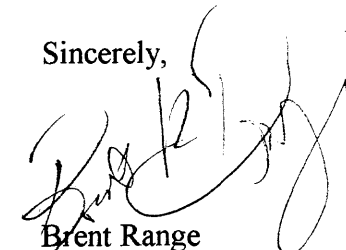
On June 21, 2002 you were sent a letter informing you of the regulation changes regarding your notices. The letter explained that without a written request for extension and posting of a financial guarantee for reclamation prior to January 20, 2003 your notices would expire. The Fillmore Field Office received your requests for extension of these notices on October 9, 2002. A notice dated July 21, 2004 was subsequently sent, in which we stated, "... your notices have been *conditionally extended*. In order to permanently extend the notices, §3809.333 requires that a financial guarantee be provided in an amount and in a form acceptable to the BLM." (Italics added for emphasis). The phrase "*permanently extend*" is inconsistent with the regulations at 43 CFR § 3809.333 and 335, as a notice cannot be extended for more than a 2-year interval and the operator must notify the Bureau of Land Management (BLM) prior to the expiration.

Subsequently you submitted the financial guarantee for your notices and on August 12, 2004 you were sent a decision accepting the financial guarantee and extending your notices. The decision clearly states "... Accordingly, notices UTU 70615, UTU 70660, UTU 75877, UTU 75878, and UTU 78293 are **extended until January 20, 2005.**" (bold added for emphasis) This decision letter clearly indicates that the notices were not permanently extended.

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Any misunderstanding of the regulations and the expiration of the notices is regrettable. However, it is clear that the regulations required the expiration of the notices. If you have any questions, please contact Jerry Mansfield, Geologist, Fillmore Field Office, at (435) 743-3125.

Sincerely,



Brent Range
Acting Field Manager

cc: Tom Munson
Utah Division of Oil, Gas & Mining
1594 W North Temple Ste 1210
Salt Lake City, Utah 84114

K. L. McIff,
The McIff Firm
225 North 100 East
Richfield, UT 84701